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University of Kentucky College of Law

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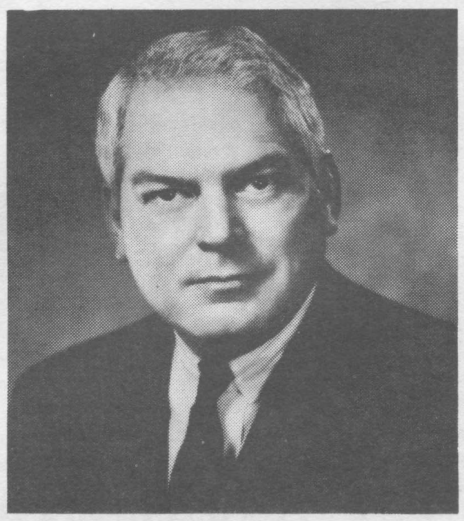
Confrontation For The Senate

JUDGE MARLOW COOK



Commentator: Judge Cook, do you approve of President Johnson's appointment of Justice Fortas as Chief Justice of the Supreme Court and Judge Thornberry as the Supreme Court Associate Justice?

Judge Cook: Well, I don't think it's my prerogative really to say whether I approve of his appointments or not, I don't approve of the method by which he went about it. You know the Senate Judiciary Committee has been accused of playing politics with these appointments for many reasons. However, I think they've done no more than the President and Chief Justice Warren did themselves. Chief Justice Warren's resignation was a contingent resignation based on the fact that the choice of the President was to be confirmed by the Senate. If it were not to be confirmed by the Senate, then obviously Judge Warren would stay on the court. So really and truly you did not have a vacancy as such, and now the Judiciary Committee in the Senate is being accused of playing politics. However, I think it's been a political parlay both ways. I think that the executive and the judiciary play politics with it, with a contingent resignation, and I think the Senate, was, therefore, entitled to act in the manner in which it has been acting. I think under the circumstances with the continuation of the President insisting on the confirmation of Justice Fortas, and the fact that it is apparent now that that confirmation probably will not come, that Judge Fortas may well resign from the court after this thing is over and this would be rather unfortunate.

Editor's Note: At the time of the Commentator's interviews with both Miss Peden and Judge Cook, the appointments of Justice Fortas and Judge Thornberry were still pending in the United States Senate.

Commentator: You spoke, Judge Cook, about the Senate being justified in the action that it has taken. Are you saying that the Senate is justified in filibustering on Supreme Court appointments?

Judge Cook: I'm not in favor of the filibuster rule; I'll be very honest with you. I think it's a real deterrent to an entire legislative system for the benefit of stopping one legislative act or one proposed legislative act.

Commentator: Judge Cook, you have mentioned that Justice Warren's resignment was contingent on Justice Fortas being approved. Thinking along these lines, do you think we should do away with lifetime appointments because it allows a Justice to hold perpetual control over his seat by making his resignation contingent upon confirmation of his selected successor?

Judge Cook: Well, I don't really think that this is what Chief Justice Warren said. I think this is what the President of the United States said, and I think between the two of them decided that this might well be the logical thing to do. I might suggest to you that this is not the first time in history at the tail end of a presidential term that this has been the case. I might say to you, however, that on all fours, that a President as well as a county judge has the right to name

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MISS KATHERINE PEDEN

Commentator: Miss Peden, President Johnson has recently nominated for Senate confirmation the appointment of Justice Fortas and Judge Thornberry for the Supreme Court. Do you approve of these appointments?

Miss Peden: I agree that the President has the responsibility as well as the right to make these appointments whether in the first month of his term of office or in the last month of his term of office. The Senate has previously approved Justice Fortas as an able attorney and one that would be well to serve on the Supreme Court; I think his service has been unquestioned at this time. It seems to me that in the stress of a political year that some members of the Senate, especially Senator Strom Thurmond and others have used this appointment in a political nature rather than looking at the true ability of the man. Yes, I would vote for approval of Justice Abe Fortas to be Chief Justice of the Supreme Court.

Commentator: What are your comments concerning the contingency that Justice Warren placed on the Fortas nomination—that if the appointment was not confirmed that he would remain as the Chief Justice?

Miss Peden: Of course, that is Justice Warren's privilege to stipulate in any manner that he wants to when he will remove himself from the bench. Certainly it is a very unusual request that he has made to be relieved of the responsibility of Chief Justice before the fall session of the Supreme Court came around contingent on the confirmation of Justice Fortas. These are unusual times. It is unusual that those of a partisan nature should be so active in the discussion of the confirmation of Abe Fortas. I believe Justice Fortas is an able jurist; I believe that his record as a public citizen, proud citizen, and his service on the court these several months certainly qualify him to be Chief Justice.

Commentator: Referring back to the procedure of appointments, Miss Peden, do you favor filibustering by the Senate as a means of opposing Supreme Court appointments?

Miss Peden: No, I think filibustering on any occasion is bad for our way of government. I think it should be brought to a vote and that the decision of the Senate rest on the vote of the majority of its members.

Commentator: We mentioned earlier that Chief Justice Warren made the approval of Justice Fortas a contingency upon his retirement and this has once again raised speculation about the life-time appointments of the Supreme Court. Through the use of the contingency method a Supreme Court Justice can almost pick his successor in the respect that he can refuse to resign if a named person is not approved to replace him. What are your ideas about life-time appointments? Do you think it should be changed?

Miss Peden: No, I am in favor of the life-time appointments and I think this is another one of the checks and balances that framers of the Constitution invisioned rather than having a person to be reconfirmed for service on the Supreme Court would then enter into a political nature. I know that Third District Congressman Cowger has suggested that there be a reconfirmation of Justices every

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J. Edgar Hoover

Opportunity For Lawyers In The FBI

Law enforcement in the United States has entered an era of great challenge and opportunity—perhaps the greatest in its history. Sweeping social, legal, and technological changes have thrust upon law enforcement new standards of performance, and the rampant growth of crime in recent years is confronting it with severe tests of its skill, resources, and determination. To effectively meet these demands will require, at a minimum, the best possible personnel obtainable at all levels of law enforcement responsibility.

This is no less true of the FBI. As the principal investigative arm of the United States Department of Justice, the FBI is duty bound not only to the Nation but also to the entire law enforcement community. For more than 40 years the FBI has been privileged to serve the best objectives of law enforcement through its own performance and by promoting many landmark programs of assistance and service to the profession. Such commitments have and will, to an even greater degree, require imaginative, perceptive, and dedicated personnel. Throughout the history of the FBI, young, law-trained Special Agents have made significant contributions in all areas of the Bureau's operations. They will continue to find even more challenging opportunities in an FBI career. These opportunities, however, as opposed to simple job benefits, await only those that have the vision, intelligence, and desire to grapple with serious challenges to this country's heritage for law and order.

Within the past two years a Presidential commission concluded a detailed study into the problem of crime in our society. This commission was followed by others which similarly analyzed the growing menace of crime in city and state jurisdictions. A major portion of the President's State of the Union Message earlier this year was devoted to the national concern with lawlessness

And, the Congress recently enacted legislation hopefully designed to better equip the Nation's law enforcement network to more effectively deal with the ugly specter of crime.

This nationwide preoccupation was well grounded in these facts. In just the past eight years, the rate of serious crimes in the United States has outraced vigorous population growth by nearly 9 to 1. Seventy-six police officers during the past year were murdered in the line of duty by felons, making an awesome total of 411 such killings since 1959. And, thus far in 1968, the recurring ambush and shooting of police officers have seemingly become "popular sport" in certain urban areas of the country. Our Nation justifiably agonizes over the loss in recent years of thousands of servicemen fulfilling our military commitments abroad; yet scant public attention is paid the far greater numbers of its fellow citizens who have been murdered in the same period. Assassinations, recalled by most only through dim historical note, have jumped with frequent and frightening clarity into our contemporary scene. This shocking evidence reveals only the high lights of a deeply embedded social problem that threatens the health and welfare of this Nation for many years to come. To combat it will require the same fervor, talent, and resourcefulness that young lawyers have characteristically contributed to the solution of grave social problems throughout our Republic's history.

For example, young lawyers since World War II have been instrumental in the heightened struggle to reemphasize and further secure the rights and privileges of citizenship. The ominous impact of lawlessness within our society now demands that these same energies also be applied to a reaffirmation of the duties and responsibilities of this citizenship. Otherwise, individual rights will be meaningless in communities governed by the rancor, malevolence, and deceit of those who feel no obligation to the necessary restraints imposed on all by the code of law. Inspired law enforcement must serve as a forerunner of the goal of constructive citizenship.

Since the bulk of crime committed is in violation of other than Federal laws, FBI jurisdiction is neces-

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COMMENT

It was an unusually warm April night in a small west Kentucky town. A young 17 year old girl was walking home from a late session of senior play practice at the local high school. The delightful evening had enticed many joy riders out upon the shady and dimly lit streets. The girl had refused ride offers from several of her school-mates as she wanted to walk alone and recite to herself some of the lines from her lead role. An old 1952 oldsmobile roared up the curb beside her, its muffler dragging the ground and the car radio blaring loudly. Inside were five intoxicated men ranging in age from 18 to 25. They were local riff raff-a part time mechanic, two barge hands, and two unemployed. She hastened her pace as they yelled obsecenities from the car which was now moving slowly along the curb. Suddendly a door flew open and one of the men, clad only in kaki pants, leaped out, grabbed the terror stricken girl and flung her into the back seat of the car.

At 3:00 a.m. that morning the terrified parents and a local policeman found the girl wandering aimlessly on a country road three miles out of town near an abandoned gravel pit. Shivering and sobbing, she was clad only in a man's blue work shirt which she had worn with slacks and sneakers to the school. There were bruises on her face and legs. Two days later the five hoodlums were apprehended, identified and charged with rape.

Three weeks after the incident the parents of the girl approached their nephew, a young attorney just three years away from law school and informed him that the girl was pregnant. When they inquired about the possibility of an abortion, the young attorney grimly pointed out K.R.S. 436.020 which clearly makes abortion illegal in Kentucky in the case of rape. However, his fervent zeal for moral reform within the legal structure having not been completely destroyed by the rigidity of everyday practice, he decided to take the case and attack the statute as unconstitutional. He alleged that while the state has the right, indeed the duty, to forbid the taking of life without due process of law, no such obligation exists to an embryo. Traditionally, both jurists and theologians have agreed that human life begins when the fetus becomes viable, that is to say when it can live independently from the mother—usually after five months of pregnancy. Subsequently, if it is not a human life it is merely an appendicular swell in the uterus and for five months at least, a property interest of the potential mother. It was argued that the arbitrary Kentucky abortion law is a deprivation of a vital property right. Such is also an unlawful intrusion of personal privacy impliedly guaranteed by the Ninth Amendment through the Fourteenth and given case law support by the Supreme Court decision of **Griswold** v. **Connecticut,** where a state law forbidding the use of contraceptions was deemed unconstitutional. The argument does grant the state authority, under its police powers, to set proper medical regulations of the clinical process. Such a proposition possessed enough substance to overcome legal standing entanglements and climb up the judicial ladder to the Surpreme Court. It was the only court to buy such an argument and the abortion law of Kentucky as well as those of most other states fell from their anachronous rafters.

This fictional anecdote may appear unlikly and absurd. It is hardly as ridiculous however, as the realization that our statutory machinery allows oral contraceptives for birth control while outlawing abortion in such problematic instances of rape and deformity of the fetus. Last spring the General Assembly chose to follow the antiquated and illogical view of the past when it stifled an effort to legalize certain types of abortion in this state. It refused to formulate a reasonable and worthwhile approach to this pressing social problem. Many of the members of that body are lawyers, belonging to a profession usually thought of as straightforward and progressive. It is hoped that the 1970 Assembly will be more perceptive and usher Kentucky into the twentieth century in regard to abortion. If not, we will again have to sit feebly by, while the U.S. Supreme Court makes clear-even to our General Assembly-that a life unwanted should never begin.

* * * *

The main topic of conversation around the law school during the initial days of September was the results from the summer bar exam. Such discourse has been anything but encouraging. Here's a rundown on the Bar results for the pass three years:

Date of Examination	UK Grads Taking	Passed	Percentage	Percentage for Total Taking
Winter 1966	24	22	91.66	77
Summer 1966	55	48	87.2	Not available
Winter 1967	25	22	87.5	Not available
Summer 1967	88	81	92	85
Winter 1968	29	21	72.5	80
Summer 1968	87	66	75.8	80.49

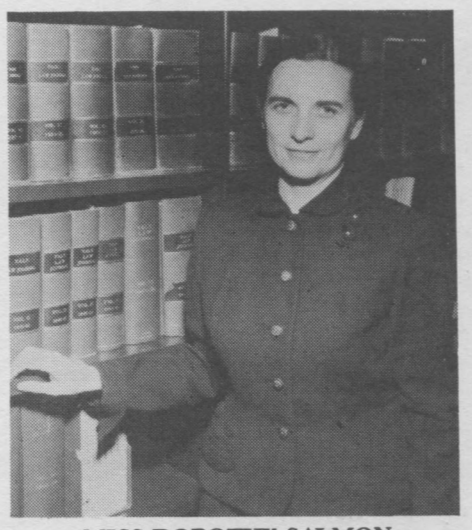
Statistics speak for themselves. What is not clear however is the reason for the drop in percentage passing. Somebody, somewhere should be concerned. Maybe students-maybe others.

Dorothy Salmon, Law Librarian Dies

Miss Dorothy Salmon, Law Librarian and Associate Professor of Law, died August 14, 1968 after a serious illness. Miss Salmon, a native of Paducah, Kentucky, graduated in 1933 from the University of Kentucky with the B.S. degree in Commerce. After graduation, she entered the College of Law, where she became Note Editor of the Kentucky Law Journal and served as secretary to Dean Alvin E. Evans. Miss Salmon received the LL.B. degree in 1938 and was admitted to the Kentucky bar in 1939. She joined the faculty of the College of Law in 1945, as Librarian and Instructor.

Miss Salmon was a past President of the Southeastern Chapter of the American Association of Law Libraries, and a member of the Kentucky and Central Kentucky Library Associations. She had been Secretary of the Kentucky Law Alumni Association, and had served as an elected member of the University Senate from the Law Faculty. She was a member of Order of the Coif, Beta Gamma Sigma, and an honorary member of and faculty adviser to Beta Chi Chapter of Kappa Beta Pi Legal Sorority.

During the period in which Miss Salmon was Librarian, the University of Kentucky College of Law Library increased from a collection of about 20,000 volumes to a collection numbering over 90,000; the annual book fund increased from $5,000 to $40,000; and the staff of permanent employees and student assistants was greatly enlarged. Her presence at the College of Law will be missed by faculty and students.



MISS DOROTHY SALMON

A Visit With John Bull

By MARY GOODFRIEND

One of the cultural opportunities of "studying" in England is the chance to observe the habits of our English cousins in the profession at close range. Unfortunately, it's impossible to drag the English law student off the continent and into a class with crass Americans even if you paid him. Since law is an undergraduate course (three years), the English graduate goes right from school to work. (He has no military obligation, "one of the advantages of being a lesser power.") Consequently, he is loathe to sacrifice his precious summers to study since graduating early won't put him ahead of the game.

Therefore, William and Mary couldn't recruit any real live English students as easily as they did real live English professors. But we still learned a little about our absent cousins habits albeit second-hand. **Crossmead,** our little state away from the States, is a typical landed gentry estate turned dormitory. It is resplendent with massive rose and vegetable gardens, a tennis court, and a fish pond and a swimming pool, (the last two maybe were a distinction without a difference.) Anyway, it also is furnished with waitresses, maids, a "Chef," a "Warden," and a Miss Tilly, who with a name like that had to be the "House Matron." All these people created the spectre of "our boys," English hero-students, who were neater, more polite, more intelligent, and definitely less rowdy than the Invaders.

The factual information these people contributed is that once a month "our boys" attend a formal dinner. As far as one could tell the affair was white tie and tails, sherry, and a famous Lord-speaker. Eating is a big part of British law. To "keep term" at an Inn of Court (keep one's membership) is to eat the required number of meals there. In the days before the printing press a lector would read law at dinner so that the future members of the Bar were expected to be on hand. The assumption was that it was easier to digest the law and the food at the same time. [There may be some basis to that assumption; the Chef at **Crossmead** was so bad that it would have been easier to digest the law.]

What "our boys" did in their serious time we found out from Mr. Petah English, an English professor, who taught English Legal Systems. (What else?) Interestingly enough, "reading law" at an English university is no commitment to enter the profession. Law is considered an excellent preparation for many careers like the coveted civil service. Approximately, 40 percent of these reading law do not enter the profession.

With an obligation to educate the non-law 40 percent, the English university keeps the professional goodies to a minimum. No moot court; no case method; lectures; and small classes. Of course, when there are only about 1500 first year applicants in law in all England, one could expect the classes to be small. Size also affects the English preference for legal tutorial projects.

The English curriculum is less specialized: where we can expect to study about fifteen fields of Law in three years, the English only cover nine. Their missing courses are law related—like English Legal History, And English Legal Systems. From the old exams left in the Crossmead library, it appears that the exams are half standard American type fact situations and half discussion questions, "Discuss the concept of contributory negligence."

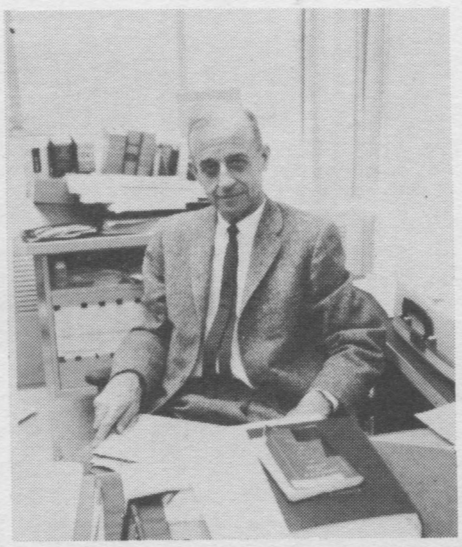
Unfortunately, the basis of this comparison is all hearsay. The best way to evaluate its reliability is to join the William and Mary summer camp abroad —which might even be recommended for some of its academic courses.

Prof. Richard D. Gilliam Retires

The face of a beloved figure is absent from the halls of the Law School this year. Professor Richard Gilliam has gone into the world of private practice, much to the sorrow of those who knew him so well.

Mr. Gilliam, a graduate of the University of Virginia Law School, practiced in Birmingham, Alabama, from 1925 to 1942. He spent four years in service, then two years as Court Supervisor in Korea. After spending two years studying at Yale, Mr. Gilliam came to the University of Kentucky as a visiting professor. He studied at Wake Forest and at Virginia for three more years. In 1955, he returned to Kentucky and became a full-time professor in 1957. He served as such until retiring in June of this year.

Mr. Gilliam will feel right at home in Owensboro where he will be associated with Mr. Hugh Moore, a former student of his. Twenty-two of the eighty-five attornies in that city are former students of the Virginia Gentleman. Our condolences out to them when they cross his path in the courtroom.



PROFESSOR RICHARD D. GILLIAM

Barrister's Open

The annual Barristers Open Golf Tournament was held at a finely groomed Tates Creek Country Club course. Gary Herfel and Bill Moore executed 3 over par 74's to share championship honors in the medal play event. A strong field of 20 determined golfers, including Professor Garrett Flickinger, were shooting for top honors. Bob Wilmot, Larry Tweel and Rob Sprangens shared low net honors.

NEXT ISSUE

SENATOR MARK HATFIELD is the **featured editorialist for the Commentator.**

OFFICERS OF STUDENT BAR ASSOCIATION: from the left, Mrs. Lane Ward, Secretary; Gayle Robbins, Vice President; Ed Glasscock, Treasurer; James Craft, Second Year Representative; John Adams, President; Pete Gullete, First Year Representative. Third Year Representative Bill Baird was absent when picture was taken.

The Rebellion In Our Midst

By ROBERT M. VILES
Associate Professor and Assistant Dean

In these days of student insurrection it is undoubtedly reassuring to lawyers and law professors that law students are maintaining their accustomed compalisance, compliance and couldn't-care-less. While the civil rights and anti-war movements have spilled over into some law schools, the only open remonstrance with the law academy itself has come in student demands for representation on the faculty committees that ostensibly control curriculum, personnel and other divisions of law school management.

All this overlooks that law students have been in de facto rebellion for years. The rebellion has persisted so long that it is now recognized as the normal state, and all standards of conduct have been accommodated to it. I refer of course to the fact that after the first semester or two law students do not brief cases or, in many instances, read them at all.

One may respond that this is not rebellion but merely the typical behavior of sophomoric students. It cannot, however, be dismissed so easily. After all, modern legal education is the case method, classroom teaching follows the socratic method, and of course (and bar) examinations use the essay question. Each of these fundamental operating principles assumes that the student has read the cases: first, because they are the principal source of his education; second, because they are what any legal dialogue is all about, and third, because the correct answers to essay questions can be arrived at only on the basis of thorough mastery of the reasoning in the cases in a course.

Notwithstanding their constant peroration, these principles are not adhered to in most law school courses. I must admit here—I certainly would not admit it in class—that I hold experienced students who do not read cases in considerable respect. After all, there is absolutely no **reason** to read cases, except (1) to figure out how to understand the judicial opinion as a major mode of legal expression and (2) to find out what a case stands for, that is, the rule of law or interpretation of facts made by a court. It should not take a law student of median legalmindedness more than a semester to master thoroughly the first task (especially if he should happen to obtain some assistance from his instructors), and the practicing lawyer knows that there are more efficient ways to find out the law than to read cases, such as consulting treatises, hornbooks, digests, services and the like, not to mention statutes, regulations, rulings and what the judge had for breakfast.

What law students actually do—to depict the obvious—is (a) briefly scan over the day's cases during odd moments before class, (b) avoid eye contact with the teacher in class, (c) if they have not already scanned the cases, run over them lightly while the professor is placing Socrates, writing on the blackboard or discoursing on larger socio-politico-economic issues, and (d) take down every word the professor says about the cases. Steps (a) and (c) minimize the risks of bluffing and using up one's limited supply of "unprepared, sir's;" step (b) reduces the risk of being socratized to long-shot odds, and step (d) prepares for the final examination. An advanced student who does brief cases is either a slave to habitual obedience, an ashes-and-sack-cloth masochist, an individual incompetent to manage his affairs, an incipient do-gooder taking pity on the professor, an apple-polisher arrested in adolescence, a thespian (or budding law teacher) who thinks Socrates ranks above Barnum and Baily in showmanship, or a fatalist committed to his own doom. (I add the last category because of the widely demonstrated but largely unheralded rule—hereby dubbed Viles' Law—that the amount of case-briefing and other rigorous course learning is **inversely** proportional to the examination grade received. The explanation for the Law lies in the peculiarities of law examination giving and grading—a black art too complicated and arcane to consider here.) A teacher who has the mark of greatness among students is one who lays out the law, that is, who so thoroughly and cogently (and perhaps entertainingly) discusses the cases that only reasonable note-taking adequately assures the student of all he needs to know. Of course, if a student is so unfortunate as to have a teacher without the mark of greatness, he may have to learn the law all by himself.

By not reading cases and by otherwise conforming to the practices of the button-down rebellion it is possible to do well in law school without putting much into it. Some students do only that, but the number who find the resulting education boring, wasteful of their time and utterly inadequate for becoming an able lawyer is large and growing larger each year.

The result of the dissatisfaction with law school class work does not take the form of petitions, strikes or other confrontations demanding a better education. Such disorderliness cannot be expected in a profession necessarily authoritarian, among students whose character must pass the scrutiny of a bar admissions committee, or in an atmosphere where common sense, practicality and let's-work-this-out prevail. Instead students use two sets of techniques for working out their own educations (which is the only sure way of getting an education anyway): the orthodox and the heterodox. The orthodox technique requires the student to emphasize that small portion of law school work that involves some learning activity on his part—moot court, aid, practice court, estate planning and other drafting exercises, and the like—and to spend at least part of his time, during term or vacation, working in a law office. His schedule may run like this: class attendance—15 hours (or as convenient), office work—20 hours, learning activity (mootcourt, legal aid, etc.)—5 hours (averaged throughout the three years of law school), and intake of refreshments (known also as learning law by osmosis or by hanging around with other law students)—10 hours, for a weekly total of 50 hours.

It should be noted that by involving it only 15 hours per week the orthodox procedure asserts a rather pregnant commentary on the role of the instructional staff in formal legal education. The heterodox method, on the other hand, is followed when a student spends most of his 50 hours of study time in the law school itself, which he can do **only** by increasing his learning activities there or by obtaining unorthodox, that is, non-case method, instruction from his professors, since he is not permitted to take more than 15 or so hours of regular class work during a semester.

It is the last matter on which I close this brief essay, because it suggests that the accommodation with the rebellion against the case method may be giving way; that law students, especially those who are tired of the content of some of their courses, may increasingly demand that the content and method of law school instruction be more directed to what they will be **doing** as lawyers, whether it is a traditional kind of practice or one of the newer off-shoots or interdisciplinary grafts. Students may come to demand that law schools provide them with the learning experiences of internships, of mock proceedings besides moot and practice courts, of significant and realistic writing and research tutelage, and with some kind of qualification for license to practice that overcomes the limitations of the bar examination, which only reinforces the present narrowness of law school instruction.

There is some small quiver in the worlds of law school and legal practice that suggests something ought to be done before out-and-out rebellion explodes. The organized bar is attempting here and there to reassert control over professional education, and the law school union has moved for a fundamental study of the order in its house. However, the bar is likely to conclude that we need to return to the close-reasoning, ad terrorism classroom practices of when **they** went to law school, and the professors are likely to issue self-fulfilling prophecies that continue the sweet apartheid between legal education and legal practice. Perhaps at some time in the future law students will make both houses take notice of what really is going on and what really ought to be done.

AMICUS CURIAE . . . Friends Of The Court

PROTEST AND THE DANGER OF UNREASONED RESPONSE

The irony of protest today is that it is precipitating the antithesis of the end it purports to achieve.

This is an unprecedented era of personal freedom. During the preceding decade the legal system has been rights oriented and concerned more than ever before.

However, this is also a time when many question the sufficiency of the systems concern with individual freedom and opportunity. Consequently, this is an age of individual and mass protest. The protest has become increasingly more violent.

The manifestations of protest and their resultant effect on our society and on our freedoms have been the cause of much dialogue and response. More decisive of the future of individual liberty in this nation, however, is the nature of the **response to the protest** rather than the protest itself.

What responses are manifest? The current attack on the Supreme Court and the demand for limitation of its powers and legislative reversal of its decisions is a significant example. Mr. Wallace's very candidacy is an indication of the nature of this response.

Many demand restrictive laws aimed at limiting the rights of free speech and assembly while others resort to physical abuse of the demonstrators themselves. Mr. Nixon recommends doubling the conviction rate. The question is, at what price? These **responses** pose a **greater threat** to individual liberty than does the protest however manifest.

Most often the attitude of response is not one of reason, but of unreason and emotion. This **over-response** breeds suppression of individual freedom and is the **real danger** today.

Must the classic pendulum swing from unprecedented individual freedom to a new era of individual suppression? Unreasoned and untempered response to demonstrations and protests will certainly compound its momentum.

Hopefully, the conditions which cause much of the demonstrations and concern today will soon be alleviated, but during the interim, those who seek to suppress the actions of a few had best consider the implications for all.

Gary L. Herfel

GUN CONTROL

A phenominal hysteria has grasped the country and with it there has been increasing clamor for stricter gun control laws. WHY? The reason given, which is obvious and valid, is to reduce the number of intentional homicides caused by firearms in this country each year.

Strict gun control laws; i.e., where no mail order sales of rifles, shotguns, pistols or ammunition is permitted, registration of all firearms, license issued to prospective firearm bearers only after close scrutiny by state or federal officials, would naturally tend to decrease deaths caused by firearms if for no other reason than the decrease in number of firearms in the hands of the public.

Nevertheless, it is generally agreed by both pros and cons that administration of such laws would be extremely difficult and perhaps, if history is any indicator, would lead to total confiscation of all firearms. Those who may be "suspicious" of committing a gun crime will obtain firearms regardless of registration or licensing and even confiscation and thereby circumvent the primary purpose of reducing criminal deaths by firearms. In fact, the Supreme Court in **Haynes v. U.S.** held that evidence of not registering a firearm by one who might be suspected of a crime is not admissible into evidence if the one who failed to register is later accused of a crime. Therefore we have the anomalous situation of the ordinary law abiding citizens being the only ones effectively controlled by the gun control laws. He is disarmed without a self-protection while at the same time he is faced with an alarming increase in crimes against the person. The police are put in a better position to control the law abiding citizens but without a corresponding position to control criminals who may be predisposed to commit crimes with guns. The criminal has the sword and the citizen is without the shield. This is a classic example of where the cure is worst than the disease.

One proponent of the gun laws, Senator Joseph D. Tydings, D-Md., has sought a stiff federal punishment for persons failing to register their guns. It would include punishment ranging up to 10 years in jail and/or $10,000 fine. This is a bit out of perspective with our laws in this country which have as their purpose to reduce deaths by an instrumentality. Take for example the automobile and the laws against drunk driving. Most states have laws against drunk driving with punishment up to 30 days in the work house and a $100 fine. Yet when death statistics are consulted we find that last year 55,000 persons lost their lives in motor vehicle accidents of which about one-half or 27,500 were the results of alcohol. When compared with the 7,700 persons that lost their lives from intentional use of firearms last year, the penalties for failure to register firearms and for violation of the drunk driving statutes are completely out of proportion. Just because we have been unable to control drinking while driving in this country or that we have simply refused to do so is no reason not to control deaths by firearms, but the comparison does demonstrate the sudden hysteria which has prevaded the thinking of those advocated of strict gun control.

One of the most complexing and esoteric aspects of this gun control problem is which side, Right or Left, is the proponent of these restrictions on the individual's rights? Ironically, when the records are checked it is the liberal left wing that seeks to oppress the guns in the country notwithstanding that generally the left is identified as the protector of the individual to do as he pleases. He usually tenaciously upholds the constitutional privilege of freedom of speech, by which he disseminates his pernicious obsenities, freedom of assembly, by which he demonstrates to the detriment of our cities and the consternation of most Americans. It's almost as if they were engaging in deliberate reversal of facts which is an exercise in "doublethink."

Something else that is very strange about this whole matter is that one of the planks of the left is to be on guard against a possible police state which includes alleged gestopo tactics and brutality. It is obvious that no one has sat down with them and explained that the most advantagous thing for a police state to flourish in would be a totally disarmed citizenry. Strength with restraint is a virtue of an intelligent people and this is what the people in these United States must have. Those who advocate strict gun control, even to the extent of confiscation of the firearms, are playing into the hands of an organization which someday plan to run this country by the "police method." As a matter of fact I just read the other day "COMMUNIST RULES FOR REVOLUTION," (Captured in Dusseldorf May 1919, By Armed Forces):

> C. Cause the registration of all firearms on some pretext, with a view to confiscating them and leaving the population helpless.

Americans let's not abandon our constitution on this vital issue to keep and bear arms for to do so would be playing into the hands of he who said, "We will bury you and your children without firing a shot."

Bob Fears

MERVIN METICULOUS

It's interesting to note the effect of the coffee lounge environment upon individual behavior patterns in the student body. There **must,** it seems, be some super-psychic power guarding the portals, causing temporary personality mutations within those who enter its gray-walled sanctuary.

By way of example, take Mervin Meticulous. He's an extremely well organized young man, with almost an obsession for cleanliness and order (he's the one who, while late for Mr. Flickenger's class, has the librarian unlock the courtroom so he can straighten the chairs behind the bench). But let him enter the coffee lounge, let him come under that malevolent spell, and he'll completely cover a

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Opportunity For Lawyers In The FBI

Continued From Page 1

sarily—and properly—limited to specific laws enacted by the United States Congress and directives issued by the President and the Attorney General. FBI jurisdiction now covers over 180 investigative matters concerned mainly with domestic intelligence and the more serious criminal violations of Federal law. As a fact-gathering agency, the FBI makes no evaluation or recommendation as a result of its investigations. These are appropriately left to the decisions of other interested Federal agencies such as the United States Department of Justice which, in the case of criminal violations, has the responsibility of determining the prosecutive action to be taken. In order to properly discharge FBI obligations in the enforcement of Federal laws and in the security of the Nation, Bureau investigations must be meticulous in detail, resolute in their objectives, responsive to judicial injunctives, impartial in their conduct, and reported in a manner which lucidly organizes all the salient facts. It is no coincidence that these qualities of FBI investigative performance have attracted young lawyers to careers as FBI Agents. They are the same disciplines acquired in law school which, in the FBI, are put to use in meaningful service to the country.

However, just as these standards of performance do not adequately define the many other areas of opportunity available to the law-trained Special Agents, neither does FBI jurisdiction begin to measure the complete role of the FBI in United States law enforcement. Beginning in 1924 as a central repository for fingerprint records of arrested and convicted persons, the FBI Identification Division, with the addition of certain civilian and military records down through the years, now numbers more than 188 million fingerprints in its files. The value of this identification service to the whole of United States law enforcement is evidenced in the more than 31,400 fugitives who were identified through these files during the fiscal year ending June 30, 1968.

During 1932, when the country was in the throes of another serious crime wave, the FBI Laboratory was established. The precision of scientific technique and examination was brought for the first time to the aid of police investigations in every corner of the country. This FBI cooperative service is cost free to local and state law enforcement agencies. Nearly 27 percent of the more than 342,000 examinations conducted by the FBI Laboratory in the past fiscal year were for other law enforcement agencies.

In the turmoil of the 1930's, the FBI National Academy—which has become known to many of its graduates as the "West Point" of law enforcement—enrolled its first class in 1935. Designed to train select local law enforcement officers as executives and instructors in their own departments, the Academy has produced over 5,300 graduates. Of those still active in law enforcement, nearly 28 percent occupy top executive positions in their agencies.

In addition to a staff of expert FBI instructors who serve the National Academy located at Quantico, Virginia, more than 1,000 other Special Agent police instructors annually participate in local law enforcement training sessions which reached, in the fiscal year 1968, more than 184,000 city, county, and state officers.

Astride of the demands as well as the promises of space-age technology, the FBI began operation in January, 1967, of its National Crime Information Center. This high-speed computer index to vital nationwide law enforcement data on crime and criminals is now electronically relaying, within seconds, information necessary to the arrest of dangerous fugitives and the rapid solution of crimes in all sectors of the land. Its growth and performance thus far herald the Center as one of the truly great achievements in modern law enforcement and signal the start of a new age in law enforcement technique.

Of particular interest to the young lawyer is the example also set by FBI standards of investigation. This quality of performance, in one important area, was recognized by no less a body than the United States Supreme Court in its notable decision in **Miranda v. Arizona** during June, 1966. This decision, which was concerned with the rights of the suspected and accused, paid tribute to the FBI by noting its "exemplary record of effective law enforcement while advising any suspected or arrested person" of relevant Constitutional rights. Continuing, the Court observed that "the present pattern of warnings and respect for the rights of the individual followed by the FBI is consistent with the procedure which we delineate today."

Unswerving devotion to the letter as well as the spirit of the law is part of long-established FBI policy which tolerates no coercive or precipitate conduct on the part of FBI Agents in the performance of their duties. This commitment to justice under the law is guided by a Legal Research Unit within the FBI Training Division which maintains a continuing analysis of court decisions for their effects on law enforcement practice and procedure. This experienced staff of law-trained Special Agents has enabled FBI investigative procedures to stay abreast of changing judicial opinions and ofttimes, as in the case of **Miranda**, precede court dictums by many years.

This brief recounting of various phases of FBI operations illustrates the broad spectrum of its responsibilities to law enforcement performance across the country. With the accelerated challenges of the times come ever greater opportunities for the FBI to participate in and help devise bold, new ventures that will help to insure the truly noble promise implicit in a healthy and democratic society—the right of every citizen to enjoy its many benefits without fear of one another.

To be sure there are many other opportunities for law school graduates in the FBI: the educational experience of travel and assignment to any one of 58 Field Divisions, 12 liaison posts in major foreign countries, or FBI Headquarters in the Nation's Capital; the variety of Special Agent duties which may range from delving into an intricate web of organized crime to the interviews of nationally prominent figures concerning a top Presidential appointee, or even to the studious analysis required of the FBI Headquarters Legal Research Unit; the sheer excitement in the telegraphic tempo of major criminal or espionage investigations; the triumph found in seeing justice done, whether in the just prosecution of the guilty or the vindication of the innocent; the warm humaneness experienced in bringing justice to the aggrieved and comfort to the victimized; the career satisfaction that comes with promotion based strictly on demonstrated merit rather than seniority or political affiliation; the pride in being associated with an organization that has earned widespread public acclaim and respect for its consistent dedication to its motto of "Fidelity, Bravery, Integrity;" and the adventure of serving your Nation, fellow citizens, and family in demanding responsibilities directly concerned with their safety and welfare.

The benefits of a career as a Special Agent of the FBI—salary, retirement, insurance, annual and sick leave, travel and subsistence expenses—are commensurate with its challenges and opportunities. These benefits are considered very favorable in comparison with those of other Federal agencies and private enterprise. The opportunities, however, that spring from the challenges of this position set it apart. These offer the young lawyer the chance to employ his specialized training toward national goals of vital importance.

To those readers of "The Kentucky Commentator" who are interested in an FBI career, I extend a personal invitation to inquire about further details by writing to me directly at the Federal Bureau of Investigation, Washington, D. C. 20535, or by contacting your nearest FBI office, the address of which may be found in local telephone directories.

The FBI looks forward to discussing career opportunities with young lawyers.

ON THE DOCKET

VISITING PROFESSOR

Professor Robert J. Affeldt will be teaching this year at the University of Kentucky College of Law as a Visiting Professor. Mr. Affeldt holds a Ph.D. in English from Fordham University. He received his LL.B. from the University of Notre Dame in 1951, and his LL.M. from Yale in 1956. Mr. Affeldt is a member of the faculty at the University of Toledo College of Law, where he held the position of Acting Dean for a period. Last summer he was selected to serve as a Consultant and Conciliator with the Equal Employment Opportunity Commission in matters concerning Title VII of the Civil Rights Act. Mr. Affeldt has been the author of several recent law journal articles in the area of labor law.

STUDENT BAR

John Adams, a third year law student from Lexington, is the new President of the Student Bar Association for the 1968-69 school year. Adams was elected last spring and succeeds John McCann.

The other officers who were elected are: Vice President—Gayle Robbins of Mayfield; Secretary—Lane Ward of Lexington; Treasurer Ed Glasscock of Litchfield; Third Year Representative—Bill Baird of Pikeville; Second Year Representative—James Craft of Pikeville and First Year Representative, Pete Gullett of Hazard.

The academic year began with the S.B.A. sponsored Labor Day Picnic, which was held at Robert Wilmont's farm in Georgetown. Over 300 were in attendance, which included law students and their guests as well as a large number of faculty members. Dixie Satterfield and Jim Cottrell were chairmen of the successful event. President Adams has already fulfilled one of his campaign promises by getting a new light bulb for the janitor's closet. He has failed thus far to obtain co-ed integration of the Moot Court P.E. class. The S.B.A. has also set up an endowment fund to provide the library with a perpetual subscription to **Mad** magazine.

MOOT COURT

The Moot Court Board has experienced its annual membership turnover, and has also undergone several other changes. Mr. Richard D. Gilliam, Jr., the Board's dedi cated advisor for the past 11 years, has retired from teaching, and the Board's guidance from the faculty has been entrusted in Mr. W. Garrett Flickinger and Mr. William E. Bivin.

The new officers for the forthcoming year are C. Wayne Shepard, President, and Frank G. Dickey, Vice President.

As a result of the Moot Court elimination rounds last spring, the team that will represent the Law School in the national competition is composed of Dean E. Rice, Larry M. Greathouse, and John .R. Leith. Owen T. Combs is the alternate

These four members of the Moot Court team were provided with competition in the semi-final round by Paul F. Isaacs, William J. Baird, Frank Dickey, John R. Adams, and Donnie R. Murray.

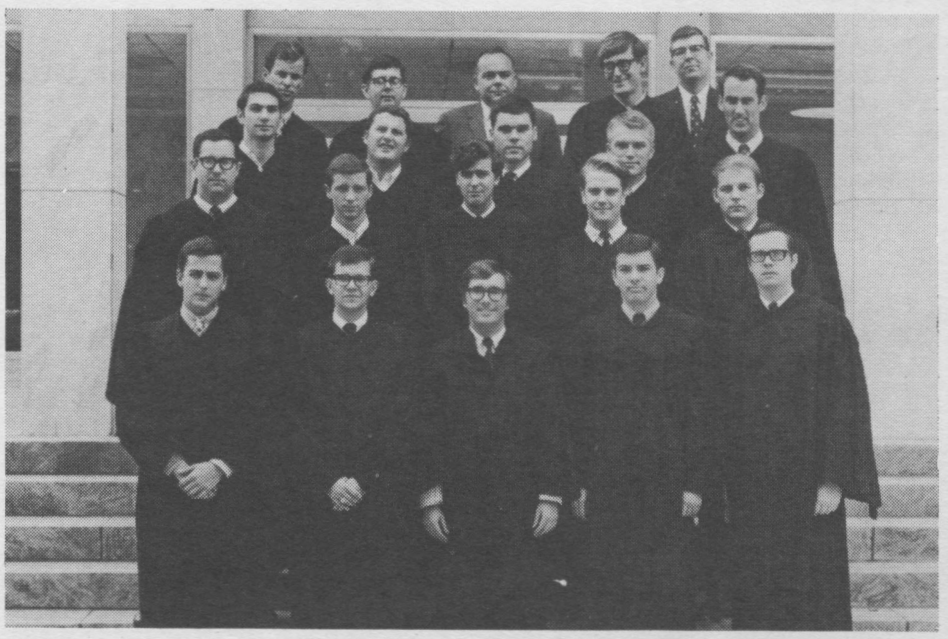
The other members of the Board, who participated in the quarter final round, are Kenneth P. Alexander, Alonzo F. Berry, John H. Burrus, Robert E. Hawley, William S. Howard, Larry G. Kelley, George W. Kurr, Richard W. Martin, Thomas R. Martin, G. Emmett McCall, Robert E. Rawlings, David R. Reeves, Wayne Shepherd, William W. Townes, and J. Gregory Wehrman.

The 1968-1969 Moot Court Board competition has been completed and congratulations are in order for the following new members: Michael Harrison, Jerry Lee Foster, James R. Elkins, Edward S. Gilson, Carson Porter, Joseph E. Ternes, Baxter Bledsoe, Joe Eckhaus, George Gregory, Gene Stewart, Thomas Price, Charmaine Marlowe, Ken Kennedy, Larry Culter, David Vickery, Chuck Arnold, Donald Mosser, Carroll Coslow, Ed Whitefield, Bill Stone, Joel Williamson, Michael Hurter, James Craft and Abram V. Conway.

NEW CURRICULUM FOR FIRST YEAR

A change in courses offered to first year students this year at the College of Law is the result of a study made last year by a curriculum committee chaired by Professor Robert A. Sedler. The basic courses in torts, contracts, civil procedure, property and constitutional law had previously been divided into two parts, covered in separate semesters. The Curriculum Committee decided that the two sections of each course should be consolidated into one unit. Mr. Sedler stated that one of the objectives in this change was to cut down on the total amount of hours spent on basic courses to allow more time for advanced studies. In past years some of these basic courses had extended into the second year of classes. Other objectives mentioned by Mr. Sedler and Dean William L. Matthews, a member of the Committee, were to have fewer subjects of study in the first year, and to present the basic courses as integrated units.

Another change was the omission of Legal Method and the addition of two new courses, Law and Legal Institutions, and a tutorial course. The Tutorial, in which students will meet in small groups of ten to twelve persons, in a sense will replace the legal writing experience offered in Legal Method. Law and Legal Institutions, as its name suggests, is expected to give students an opportunity to obtain a broad view of the operation of the legal system.



MOOT COURT BOARD: from the left, front row; Dean Rice, Franklin Berry, George Kerr, Larry Greathouse, Frank Dickey. Second row, Bob Rawlins, Wavey Townes, Paul Isaacs, David Reeves, Wayne Shepherd. Third row, Emmett McCall, Travis Combs Jr., Bill Baird, Don Murray, John Adams. Fourth row, Greg Wehrman, Ken Alexander, William Bivin (Faculty Adviser), John Leith, Garrett Flickinger (Faculty Adviser). John Burrus, Tom Martin, Larry Kelley, Bill Howard, Bob Hawley, and Richard Martin were absent when picture was taken.

Confrontation — Miss Peden

Continued From Page 1

six to eight years. I do not believe that we should change the constitution just to take care of a specific situation. Those who would favor reconfirmations of Justices would undoubtedly realize that the political nature of the era in which a problem was arising would be the overriding concern rather than a life-time appointment of a member of the Supreme Court. I think that one of the problems that is of concern to me is that each of the three branches of government is not standing on a comparably strong leg. It seems to me that the legislature has weakened itself by being interested in matters of so called court barrelling, of not taking a stand on the controversial issues. There is criticism that the courts move too fast or the executive branches move too fast, but I think that if the legislative branch of government was moving in comparable motion that many of our problems could be solved. It is for this reason that I proposed several months ago that we have a mandatory retirement age for members of the House and Senate and we have a rotation of chairmanship in the committees of the House and Senate, rather than a seniority rule that once a man is on a certain committee for forty years he automatically becomes chairman. I think we need the strength from the legislative branch of the government rather than criticism of the judicial and executive branch.

Commentator: At what age would you propose that this mandatory retirement take effect?

Miss Peden: I think that a person, man or woman, having passed his seventieth birthday should not run again. They should fill out the term in which their seventieth birthday falls and at the end of that term following their seventieth birthday they should not be eligible for re-election, but should be placed in an advisory capacity as senior advisors as the Trumans, the Eisenhowers, the Paul Douglases and many others that have retired. I think the very fact that there are going to be ten new faces in the United States Senate this particular year brings to mind just what Thurston Morton said in his announcement that he was retiring, retiring at age sixty. He said it was because of pressing personal matters and then further Senator Morton elaborated, that in fact it is a real grind. Here is a man at sixty years old saying that, so think what ten more years would add.

Commentator: That has been the source of a lot of criticism of the Supreme Court. It has been said that many of them have been out of the mainstream of life because of their age. Don't you believe that this would be a good idea for Supreme Court members, as well as the legislature?

Miss Peden: A mandatory retirement age, yes, I think would be very acceptable.

Commentator: Miss Peden, referring to the court itself I know that the Warren Court has been criticized as going too far on certain interpretations of constitutional court decisions, for example, civil liberty, obscenity and criminal procedure. Do you think the court has moved into the legislating branch of government and has gone too far on some of these interpretations?

Miss Peden: Certainly the Supreme Court over the past hundred years has taken on additional interpretative positions. I think that in the field especially of civil rights that it was an area in which we had to have movement, a social justice for every citizen, where we were bogged down by the filibuster, by the lack of action on the legislative branch and it was an impossible situation for the executive branch to move. I think that the action of the court in assuring the rights of every citizen was mandatory.

Commentator: Do you think the legislature would be justified in altering certain Court decisions to preserve the separation of power principle because the Court has possibly gotten into the area of legislation?

Miss Peden: I think the Court has gotten into the area of legislation and I think that the strength of the three partners of government must be separated but must be a strong partnership there, each standing on their own constitutional rights. In some areas where the Court has gotten into legislative matters, I think the House and Senate should be fully justified in taking action against the Court's decision.

Commentator: Senator Dirksen has proposed an amendment concerning reapportionment, which failed in the Senate. He is now taking it to the states in an attempt to conjure up enough support to amend the Constitution via a convention system which has never been done before. Do you foresee any dangers in this method of amendment?

Miss Peden: Yes, I do and I am opposed to the Dirksen amendment. I believe the one-man one-vote ruling of the Supreme Court is within the framework of American tradition that regardless of where a man or woman lives, regardless of their race or regardless of their station in life, I think they are a citizen on the one-man one-woman vote. This privilege is certainly a way I believe American freedom can be moved forward.

Commentator: Concerning the liberality of the Court, much of its criticism has been in the area of criminal procedure. Do you think the rise in crime, the riots in the streets, and breakdown in law and order can be directly related to the Supreme Court decisions?

Miss Peden: No. Law enforcement is a local matter. The precinct captain in Newark, New Jersey has got to be responsible for the immediate control of the disorder that is within his jurisdiction. The police chief then of Newark has got to be responsible for having the adequate man-power and adequate training and ability there. I perceive great danger in any thought of federal police force in this nation. I think the strength must be with the local force, the strength must be with the local law enforcement officers. It is to this focus I will direct my attention. I think that the court decisions at the Supreme Court level cannot be used as a mockery for the lack of law enforcement at the local level. The local police judge, the local police officer must have the authority and must exert that authority in holding crime down. When it all adds up, it adds up to big national problems, but when you break it down it's a local problem and it must have local control.

Commentator: Just more of less covering the waterfront now, Miss Peden, and getting some of your opinions on some of the issues out of the legal realm, do you believe that we need a revamping of our draft laws?

Miss Peden: Yes, I think we need to capsule the years that a young man would stand eligible for service with the draft. As it stands now a young man is eligible for the draft at age eighteen to twenty-six and in some cases beyond that. I think that if we were able to consolidate and shorten the number of years that the young man would be better able to plan his career. I think perhaps just as a starter we would say that he would be eligible for the draft from years eighteen to twenty-three. If he went on to college it would give him time to complete his college work and then to stand for the draft, or he could prefer to stand for the draft after graduation from high school or when reaching age eighteen rather than going on to college. But I think to keep a man eligible for the draft for this extended period of time, first it is not necessary to fulfill our man-power requirements at this stage in our national life and second it is an injustice to the young man.

Commentator: What are your ideas, Miss Peden, concerning a professional army?

Miss Peden: I am opposed to it. I am concerned that with a totally professional army we would lose that extra bit of opportunity for young Americans to serve their country. Secondly, I fear that a professional army in these days in the United States would principally be a black army, because of the lack of opportunities for young Negro men. I believe we would be saying to the Negro that here is an avenue that would be an excuse for lack of training, lack of opportunity. It would almost be a job of last resort to some of the minority groups in this country and I fear for that.

Commentator: Do you approve of gun control legislation, and if you do what kind would you advocate?

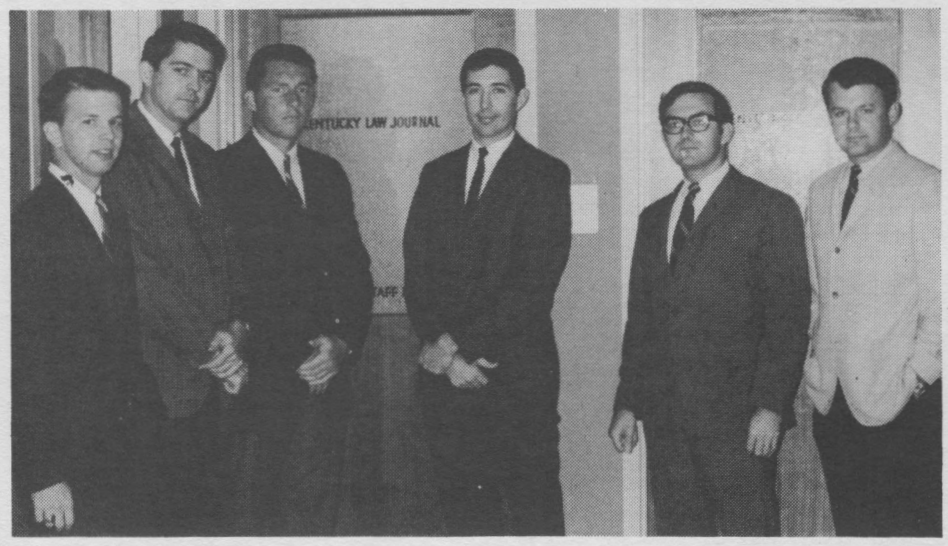
Miss Peden: I support the control of the mail order shipment of firearms and ammunition just as I support control of mail order sale of narcotics or drugs or many other items. I was very pleased to see that Sears & Roebuck announced that it was withdrawing guns from its mail order catalogs, even before the Senate took action on the bill. But I am opposed to registration and licensing of guns. I do not believe that the great majority of Americans who own these guns own them with the intent of criminal action. That tiny minority that does own a gun with the intent of criminal use, I do not believe would come forward and license that gun. I believe there are so many things we need to do in this country that are more important in the control of crime than the registration and licensing of guns. I think we need to restore respect for the man who wears the badge. I just couldn't get it off my mind yesterday seeing these hundreds of firemen coming across that stage bringing over a half million dollars in this Crusade for Children's campaign and remembering that in Milwaukee, in the riots there, that the only three lives lost were firemen, killed by snipers. There must be a restoration of respect for the man, for the fireman or police that wears that badge. That respect has got to start from each of us as individuals. Saturday afternoon after the ballgame I stopped and had a conversation with the traffic motorcycle partolman there in Lexington and just chatted with him about what his duties were. He said, "Miss Peden you have given me the only kind word I have had all day," and this was just a simple conversation that lasted 45 seconds, I guess, but he said if I could just get one kind word a day.

Law Journal Plans Symposium

During the 1968-69 academic year the **Kentucky Law Journal** will publish two symposia of particular interest to the legal profession. The first will be a Student Symposium on the Outline for Proposed Revision of the Kentucky Criminal Law which was recently published by the Kentucky Crime Commission and which is to be submitted to the 1970 Kentucky General Assembly. This Symposium, which will appear in Issue Number 3 (Spring 1969), will consist of Notes by third year **Journal** members on such topics as sentencing, degrees of offenses, inchoate offenses, and psychiatric examination in criminal cases. Shorter student comments by second year **Journal** members will examine specific proposed statutory offenses.

The subject of the second symposium, to appear in Issue Number 4 (Summer 1969), will be Insurance. This symposium will examine such areas as automobile insurance regulation, life insurance price measurement, and consumer credit insurance. Some of the contributors will include: William T. Cahill, U.S. Representative from New Jersey; David Dykhouse, Michigan Insurance Commissioner; Dean Sharp, Counsel for the U.S. Senate Subcommittee on Antitrust and Monopoly Legislation; and, Bertram Dedman, Counsel for the Insurance Company of North America.

The new members selected for the Kentucky Law Journal from the second year class are as follows; Larry Allen-Ashland; John Bland-Sonora; William J. Cooper-Elizabethtown; E. Robert Goebel-Lincoln, Illinois; Dan Kemp-Princeton; Paul L. Lamb-St. James, New York; Herb Sparks-Edmonton; Thomas E. Turner-Madisonville; Bill Wobbekind-Butler, New Jersey; Ben Dickinson and Thomas B. Russell-Glasgow; David Fister, Glen Bagby, Shelby Kinkead Jr., Charles Weaver and Curtis Wilson-Lexington; and Lee Harvath, Greg Haynes, Sidney Morris and Andrew Winkler of Louisville.



MEMBERS OF THE LAW JOURNAL EDITORIAL BOARD FOR THE COMING YEAR: from the left, Douglas M. Bricker, Editor-in-Chief, Milford, Ohio; James N. Brickey, Articles Editor, South Perts; John Smith, Book Review Editor, Lexington; Larry G. Kelley, Comments Editor, Lexington; Woodford L. Gardner, Managing Editor, Park City; Gary L. Herfel, Notes Editor, Ft. Thomas.

INVOLVEMENT

By JOHN ADAMS
SBA President

The recent history of the "college community," the nation, and the world can be characterized in light of the term "involvement." This term may have various connotations to you as a reader, but, the immediate use of it is confined to mean "to associate one's self with a popular (or not so popular) movement."

The College of Law presents a good opportunity for the students, the faculty, and the Practicing Bar of the Commonwealth to become "involved."

For the student, there is an opportunity to participate in many academic programs (albeit some required) and to deal with all phases of our societal make-up and its relation to our legal system.

The faculty can, and does, notwithstanding some of their idealistic concepts, perform vital services in and outside the academic world. They provide stimulation of minds and thought patterns in our students and in our society.

The practicing bar is by far the most "involved" in the community of which they are a part. However, an involvement by these same attorneys in "formal" educational programs is perhaps not as significant as it could be.

Perhaps the viewpoints herein expressed are not as consequential as they lead one to believe, but on the horizon of our society can be seen the need for total co-operation among these three varying but not so unrelated groups. A thorough understanding of what the "other groups" are doing and a close introspection of "myself" and "my" ideas and attitudes would be most significant.

The duty of the student, the faculty-member, and the practicing attorney is to recognize the problem and the need, to cooperate (interact) with the other "groups" mentioned herein, and to work out what is deemed best for the legal profession in relation to societal needs.

Confrontation — Judge Cook

Continued From Page 1

appointments to basic commissions and boards, not just for the first thirty days of his term or up to the last 90 days of his term but during his entire term. I think that this is a matter which has gotten itself entangled in the political campaign. Obviously, it is rather unfortunate, but I think the unfortunate circumstances were created by both parties—both the judicial and the executive on one hand and the legislative on the other.

Commentator: Along the same lines, do you feel that lifetime appointments are necessary and should be retained?

Judge Cook: Well, you know, I'm not sure. As a matter of fact, Jefferson suggested that it not be this way, but that he felt that what he proposed could not go through. Now the strange thing about this is the only lifetime appointments to a major court in the United States is the Supreme Court. I don't really think there is anything wrong with determining a proper term of an office and then be submitted for reappointment. I do not really think that I would approve of a system whereby, say for instance the Congress of the United States, would evaluate a Justice after a given period to determine whether he should stay on the court or not, because this again becomes a ramification of one's—not his legal capabilities, but his philosophical capabilities—but I think there ought to be, if it is considered, a change away from lifetime appointments. I think it ought to be a specific term with an opportunity to either confirm advise and consent. But not a matter of whether one would evaluate at any given time or at its discretion whether a person is doing a good job or not a good job.

Commentator: Judge Cook, the Warren court has been criticized as having gone too far in certain areas with its decisions, namely that of criminal procedure, obscenity, civil liberties. Do you think the court has actually gone too far in these areas, and do you think that perhaps it could have been better left to state tribunals or other appropriate bodies?

Judge Cook: Well, I think a great deal of it, even if it wanted to get into that field would be the legislative recommendations. I think they've superceded a great deal of the legislation. We have a Court of recent vintage who has sought to extend itself into the legislative field to a far greater extent than any other court has done in its history. This is not its prerogative. This is not what it was set up to do. It was set up to make a determination on facts before it based on the law and not to go so far as to socially interpret the intent of that law as it may have been determined as of today but as of why it was created and what it was created for, and I think that this has been a move that the courts have continually done. I think it has put many people on many levels, including government, in quite a bind.

Commentator: To what extent, Judge Cook, do you think the Senate should act to either alter Supreme Court decisions or to change the law on which these decisions are based?

Judge Cook: Well, number one, I think this has all come about really and truly by the fact that the Senate of the United States is so busy on executive programs, as such, that it has not spent the time nor the effort to exercise the control that a legislative body really had over the basic system of government in this nation. It's kind of frustrating, really and truly, to have Senators and Congressmen really feel that they can do nothing about these things and, though to this extent, I think it should function far more authoritatively. I think it should set the guidelines down. I think it should reassert itself legislatively so that there can be no question about the separation of powers between the executive, judicial, and legislative. I think you will find that this has been a slippage all over the country. It has been a slippage in state legislatures, for instance, far more so than on the national level. The state legislators, because they meet periodically and because they are not in continuous session, have their authority and their power usurped continuously by executive and by judicial fiat and I think it's a matter of reassertion of the legislative authority and power under the Constitution and a redefinition of the public conscience in regard to what the authority of the executive branch, and what the authority of the legislative branch is.

Commentator: Senator Dirksen has proposed an amendment concerning reapportionment, which failed in the Senate. He is now taking it to the states in an attempt to conjure up enough support to amend the Constitution via a convention system which has never been done before. Could you tell us what dangers you foresee in this method of Constitutional amendment?

Judge Cook: Well, our original Constitution was written by a convention so you can't really perceive that there would be any great danger in the convention system. I think the right of the people to determine what they want in their constitution and how they want authority exercised in their constitution should be a basic right of the people. The fact that Mr. Dirksen has gone to the respective states has not in any way abrogated anybody's rights or their ability to speak up when the time comes on the issue of one man—one vote that he has been attempting to alter so that there will be one body of government that always represents the state at large so to speak. The ultimate determination will be the same anyway whether he takes one route or the other as long as the people ultimately speak in relation to how they feel about a change in their constitution. I really don't think anyone has any objections to this.

Commentator: Judge Cook, the criticism that the Dirksen amendment method has received is that it will open up a sort of Pandora's Box. In other words, that while we are under the reapportionment umbrella other items will come in. Considering the sectionalism that we seem to have in the country today, do you think perhaps that this is valid criticism?

Judge Cook: Of course, I am not sure that a constitutional convention in the United States at this time would be the greatest thing in the world purely and simply because of the state that we are in. I am afraid this really gets too political for me to answer your question as such because I'd like to answer your question from a legal standpoint and not so much from a political standpoint.

Commentator: Judge Cook, you have had the opportunity to review the Supreme Court decisions from the county level. Seeing as how many people feel that the local level is where these decisions have really been felt. Do you think there is any validity to the charges that Supreme Court decisions have increased crime and lawlessness?

Judge Cook: Well, from our standpoint it's a valid charge to this extent. Because of the difficulty in prosecuting almost in what we would refer to as open and shut cases, the cost of prosecution has risen tremendously in local government. The right of the defendant in many cases far supersedes the right of the prosecuting witness. And to this extent we find it very difficult some times in prosecutions, because of Supreme Court decisions, to arrest in regard to right of constitutional privileges. And yet an accused has the authority to attack where we have failed to cross all or our t's or dot all of our i's, when in essence, investigative-wise, the commonwealth attorney may have an open and closed case against a particular defendant.

Commentator: Do you think there should be changes in the draft law, if so, what type of changes?

Judge Cook: Well, let me say this to begin with. It really doesn't concern me that the vice president of the United States has said that if he is elected he is going to fire General Hershey. I'm not worried about whether they fire an individual or not, I'm worried about whether they change their regulations. They can fire anybody they want to and never change their regulations and the system will be the same. Right now, a young man in this nation is kept in a state of suspended animation and it is wrong. If, as the opposition party says, he represents the future of this young man, then he is treating this future with a great deal of disdain because he keeps him tied up from the time he's eighteen until he's twenty-six. Now this means that this young man cannot really determine his future. And I really believe that there are two approaches that should be made to this and they should coincide with each other. First, I think we should go to a determined means right now to create a professional army in this nation that is commensurate with private industry in that all of the incentives of private industry, the salary of private industry, are made available to the young man in this nation if he wants to make a military career. By the way, this would coincide very, very well with our present programs of trying to get thousands and thousands of jobs for people all over this nation.

Commentator: What are your ideas concerning gun control legislation?

Judge Cook: First of all let me say that I am opposed to gun licensing and gun registration. As I said the other day, we don't really need gun licensing and gun registration, we need a new conscience in this nation. If you are to go by some of the Supreme Court decisions that we now have, those who have illegal guns who would have to register them and be subject to a penalty by failure of having registered them under the Haynes decision, they would not be compelled to register them anyway. Secondly, this is not a license as such. If it is going to be done every year, it will ultimately turn into a tax. I feel that if we were to go to this we would create another tremendous bureaucratic system whereby we would have millions of names of millions of people and millions of numbers that would take thousands of employees and the cost of the program would never justify the program itself, because basically what you are facing is that everybody is going to register. All the good people are going to register their weapons. Those using them for illegal means are not going to register them anyway, so I don't really know what the end result would be.

AMICUS CURIAE . . .

Continued From Page 3

table and surrounding floor space with his lunch litter (and a great deal of his lunch). Mervin's favorite trick is to arrange his trackings strategically, insuring that all books placed on any horizontal surface within lounge confines suffer defilement of either a damp or sticky nature.

Not only is Mervin normally clean in his habits, but also in his thinking. He is famous for never having grossed out a date; he merely chuckles at lewd jokes (just to be sociable); and he totally refrains from obscene phone calls to sororities. Coupling these high moral standards with his admirable sense of social responsibility, and his respect for property of others, presents us with a fine composite image indeed . . . a fine image, that is, until caffeine withdrawal symptoms urge him to the basement. Then the morally-upright and responsible Mervin (the one who won't write in his own textbooks because he paid for them, and it looks sloppy) is overcome by a picture of Raquel Welch in a fur bikini, and succumbs to the uncontrollable desire to sacrilegiously scribble graffiti on the reproduction of her mouthwatering form (as well as close-by tables, machines, and walls.).

This same Mervin who preaches non-violence and the power of reason in the hall, kicks the front out of a vending machine which swallowed his nickel in the coffee lounge. It might be in the best interests of Mervin to pass coffee out to him. . . .

Dean Rice

THE TWO PARTY SYSTEM

Recently, Senator Gaylord Nelson introduced legislation to completely overhaul the "convention system" of choosing a party's candidate for national office. What is needed, however, is not mere facade lifting but a major realignment of the two political parties along ideological lines.

A recent advocate of just this sort of change was none other than Barry Goldwater. After his crushing defeat in 1964 Goldwater proposed that the "Republican" and "Democrat" terminology be dropped in favor of "Conservative" and "Liberal" titles. The idea has considerable merit for it would eliminate a great deal of the political hypocracy that is present today. As an example, it is curious to see Senator Strom Thurmond and Governor Lester Maddox on opposite sides of the political fence when in actuality they are ideologically inseparable.

Today the Republican party has moved a long way from the militant abolitionists who first structured the party in the 1850's and 1860's. The ideal upon which the Republican party was founded has not been lost but it has been so well submerged as to be almost invisible. The Democratic party tradition, once founded on the Jeffersonian Ideal, has long since compromised itself for the maintaining of the status quo in Southern politics and for Neo-Federalism in the rest of the country.

A two-party system comprised of a liberal and a conservative party certainly would not remedy all the political ills of the country. What it would do would be to give the average voter a little clearer choice as to how, and in what manner, government should function and perform its services for the people. This would not completely eliminate the chance of a major third-party competing in national elections but it would narrow the ground on which such a third party candidacy draws its appeal.

Today both the Republican and Democratic parties are trying to be all things to all people. The present lack of real difference between the two is a strong factor in the popularity of George Wallace today. It does not and should not have to be that way.

D. John Frelinger

Student Placement Program Started

Under the direction of Assistant Dean R. M. Viles and S.B.A. Placement Chairman James B. Brien, Jr. the University of Kentucky College of Law has founded the Student Placement Program. The placement program has been formed to aid graduating students in finding employment in legal and corporate fields.

Col. James Alcorn, Director, U.K. Placement Service and Mr. Terrence Fitzgerald, Director, K.B.A. Placement Service met with the third year students on September 23, 1968 to explain the procedures that there respective offices follow and how they might be of assistance to the student placement program.

All practicing attorneys or firms are invited to utilize these services when seeking prospective associates.

The Kentucky Commentator

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